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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,107	06/08/2001	Kouji Shirai	P/2041-62	2375
7590	12/01/2003			EXAMINER
STEVEN I. WEISBURD DICKSTEIN, SHAPIRO, MORIN & OSHINSKY, LLP 1177 AVENUE OF THE AMERICAS 41ST FLOOR NEW YORK, NY 10036-2714			DAO, MINH D	
			ART UNIT	PAPER NUMBER
			2682	
			DATE MAILED: 12/01/2003	
			5	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/878,107	SHIRAI, KOUJI
	Examiner MINH D DAO	Art Unit 2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1 and 2 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-2 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \*    c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ .  
 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_ .

### **Detailed Actions**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Hutchison, IV et al. (US Patent 6,449,476).

Regarding claim 1, Hutchison teaches a portable telephone set (See Fig. 1, item 101; Col. 3, lines 26-29), comprising: a read only memory (See Fig. 1, item 116) in which program data are stored; a volatile memory (See Fig. 1, item RAM 114) for backing up the program data; and means operable when said portable telephone set is in a mode in which rewriting of the read only memory is allowed for writing part or all of the program data backed up in the volatile memory replaceably into the read only memory (Col. 3, lines 53-67; Col. 4, lines 1-22).

Regarding claim 2, Hutchison also teaches a portable telephone set as claimed in claim 1, wherein the program data stored in the read only memory are stored in a program arrangement in accordance with an arrangement of memory blocks of the read only memory and can be rewritten in a unit of a block (See Fig. 2, item 116, Col. 5, lines 36-42).

***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Brant et al. (US Patent 5,799,200) discloses Power Failure Responsive Apparatus And Method Having a Shadow DRAM, A Flash ROM, An Auxiliary Battery, And a Controller.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D DAO whose telephone number is 703-305-5589. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN C CHIN can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Minh Dao  
Examiner  
Art Unit 2682  
November 18, 2003 *mvac*

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600